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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/614,500	07/07/2003	Dewayne M. Turner	020569-02500	6356
22904	7590	06/01/2005	EXAMINER	
LOCKE LIDDELL & SAPP LLP 600 TRAVIS 3400 CHASE TOWER HOUSTON, TX 77002-3095			NEUDER, WILLIAM P	
			ART UNIT	PAPER NUMBER
			3672	

DATE MAILED: 06/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/614,500

Applicant(s)

TURNER ET AL.

Examiner

William P Neuder

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 April 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-11 and 27-31 is/are allowed.
- 6) ☒ Claim(s) 12-16, 18-21, 23, 25 and 26 is/are rejected.
- 7) ☒ Claim(s) 17, 22 and 24 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 12-16,18-21,23,25 and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Finley 5,676,208.

Finley discloses a well treatment tool. (See figures 1-3). Return port 134 is provided in the wall of the tool to establish a fluid flow path between an exterior and an interior portion of the well treatment tool. Sleeve 126 is considered a return port cover. The sleeve 126 is coupled to the wall proximate the return port 134. Figure 3A shows the return port closed by sleeve 126 and figure 3B shows the port opened. Engagement means 152 on sleeve 126 is adapted to engage the engagement surface of a shifting tool (not shown). The shifting tool is considered to be disposed downhole and independent from the well treatment tool. (See col. 10, lines 11-25). As to claim 13, the first position is used during circulation. As to claim 14, the second position is used during reversing to establish a second flow path distinct from the flow path when sleeve 126 is in the position of figure 3A. As to claims 15 and 21, the tool includes a cross-over 52. As to claim 16, the shifting tool is a downhole member. As to claim 18, the shifting tool operates the sleeve 126 independent of downhole conditions. As to claim 19, the entire assembly is run on a work string and the tool string is attached to

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the work string. As to claim 20, packer 162 divides the annulus into an upper annulus above packer 162 and a lower annulus below the packer. Return port 134 facilitates communication between the upper and lower annulus when sleeve 126 is in the open condition. The downhole shifting tool engages the engagement means 152 of sleeve 126 for opening and closing ports 134 independent of a well treatment pressure. As to claim 23, profile 152 engages a profile on the shifting tool. As to claim 25, the shifting tool is raised and lowered to operate the sleeve. As to claim 26, the shifting tool carries an engagement surface.

#### ***Allowable Subject Matter***

Claims 17,22 and 24 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 1-11 and 27-31 are allowed.

#### ***Response to Arguments***

Applicant's arguments filed 4/14/05 have been fully considered but they are not persuasive. Applicants' arguments with respect to claim 1,22 and 27 are concurred with and these claims are indicated as containing allowable subject matter. Applicant does not argue the dependent claims independently; but only argues independent claims 12 and 20. Applicant argues with respect to claim 12, that only figure 4 is the only disclosure of return ports and return port cover in a well treatment tool. This is not concurred with. Figure 3 clearly be considered a return port 134 and sleeve 126 a return port cover in a well treatment tool. With respect to claim 20, applicant argues that

the limitation that the return port facilitates communication between an upper and a lower annulus and that the limitation means for at least partially opening and closing independent of a well treatment pressure are not taught by Finley. Clearly, when considering figure 3, sleeve 126 can be shifted from a closed to an open condition by a means independent of a well treatment pressure (see col. 10, lines 11-25). With respect to the limitation concerning facilitating communication between the upper and lower annulus. Clearly, when sleeve 126 is shifted to the open position, ports 34 facilitate communication between the upper and lower annulus.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William P Neuder whose telephone number is 571-272-7032. The examiner can normally be reached on Tuesday through Friday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David J Bagnell can be reached on 571-272-6999. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



William P Neuder  
Primary Examiner  
Art Unit 3672

W.P.N.